

# UPDATED INFORMATIVE DIGEST

There were no changes to the immediately preceding laws or regulations directly related to this proposed rulemaking action and its effects.

During the 45-day comment period, no comments were received. There were no changes to the proposed action based on comments.

No request for public hearing was received.

The following changes were made to the original proposed text and made available for public comment from August 25, 2017 through October 9, 2017:

## **REVISIONS TO REGULATION TEXT:**

### **§ 8004. PARTICIPATION**

(a) Inmates committed to the custody of the California Department of Corrections and Rehabilitation may apply to participate in CALPIA work and training programs. Inmates who have met the requirements in Section 8004.1 may be assigned to an appropriate work position allowing the inmate to earn funds and acquire or improve effective work habits and occupational skills. CALPIA does not discriminate on the basis of disability in employment or in the admission and access to its program or activities. Inmates with physical or developmental disabilities, or inmates who participate in CDCR's Mental Health Services Delivery System, and who otherwise meet the hiring requirements, are not excluded from CALPIA job or training positions. CALPIA will afford inmates reasonable accommodation to access programs as required by the American with Disabilities Act, the California Fair Employment and Housing Act, and applicable related non-discrimination laws.

(b) Inmates shall not be eligible for a CALPIA assignment under the following circumstances:

(1) Inmates serving life sentences without parole (LWOP); unless the inmate meets the exception found in 8004(d)(4).

(2) Inmates convicted of arson, elements of arson, or possession or use of explosive material, unless the arson conviction is more than 15 years prior to the date of application and all other eligibility requirements are met, then an exemption may be considered.

(3) Inmates found in violation of Section 3016; unless the inmate subsequently meets the following minimum requirements:

(A) six (6) months of disciplinary/drug/alcohol-free conduct; and

(B) ninety (90) days of satisfactory work as written on an institutional Work Supervisor's Report, CDC 101 (1/92), which is incorporated by reference, from inmate's work supervisor; and

(C) ~~s~~Successfully graduates from a substance abuse program.

(c) Inmates who are otherwise eligible for a CALPIA assignment shall be restricted as follows:

(1) All inmates assigned to a work/training position within CALPIA, pursuant to Penal Code (PC) Section 5071, shall not have access to personal information of private individuals.

(2) Inmates convicted of a PC Section 290 offense shall not be assigned to the CALPIA optical program.

(3) Inmates convicted of forgery, fraud, counterfeiting, or embezzlement shall not be assigned to the CALPIA Specialty Print Plants.

(4) Inmates who have any of the following history shall not be placed in assignments that provide access to a computer:

(A) ~~e~~Computer fraud or abuse, as defined in PC Section 502; or

(B) ~~t~~Telephone fraud or abuse, as defined in PC Section 502.7(b); or

(C) ~~a~~Any documented institutional disciplinary action, as described in sections 3000 and 3312 of Title 15, involving the use of a computer to conduct unauthorized activity not related to the intended work tasks of CDCR or CALPIA.

(d) The following factors shall be taken into consideration on a case-by-case basis when determining the assignment or re-assignment of an inmate to a CALPIA program:

(1) Inmates with prior history of disciplinary actions, or disciplinary measures that resulted in removal from a CALPIA program may be considered for a re-assignment based upon the inmate's conduct of a minimum of six (6) months of disciplinary-free conduct.

(2) Inmates with Close B Custody designation may be considered for a CALPIA assignment that conforms with the requirements identified in California Code of Regulations (CCR), Title 15, Division 3, Section 3377.1(a)(4) or (5) on a case-by-case basis, with the approval of the Warden at the institution/facility.

(3) Institutions/facilities with a transient population resulting in inmate worker unavailability may utilize inmates with Life sentences, but shall not exceed twenty-five percent of the workforce per institution/facility.

(4) Institutions/facilities with a population resulting in inmate worker unavailability may utilize inmates with LWOP sentences with the approval of the Warden at the institution/facility on a case-by-case basis.

(e) Inmates placed on Immigration and Customs Enforcement (ICE) Hold status by CDCR shall not be assigned to a CALPIA job without an approved exemption in writing from the General Manager.

(1) ICE Hold inmate workers assigned to CALPIA will not be eligible to receive external accredited certificates unless ICE Hold status is removed in the following two steps:

(A) ~~Through~~ administrative proceedings; and

(B) ~~p~~Prior to the end of accredited certificate program.

Section 8004.1. is amended to read:

### **§ 8004.1. CALPIA INMATE WORKER HIRING STANDARDS AND REQUIREMENTS**

(a) CALPIA shall fill vacant job/training positions based on the following standards:

(1) Skill level evidenced by the inmate's technical expertise, ability, and knowledge.

(2) Behavior and relationships with others evidenced by the inmate's ability to work with staff and other authority figures, work/training supervisors, and other inmates.

(3) Attitude and adaptability evidenced by the inmate's willingness to learn, take directions, and orders.

(4) Work/training habits evidenced by the inmate's punctuality, dependability, care of equipment, and safety practices.

(5) Formal education and training evidenced by the inmate's preparation for the work/training assignment and the ability to read, write, and speak effectively.

(6) Ethnic Balance. Ethnic balance is achieved by assigning identified ethnicities for CALPIA work/training position in proportion to those represented within the inmate yards at the institution.

(b) Inmates shall meet a minimum intake requirement of two (2) years and a maximum of five (5) years from their earliest possible release date (EPRD), on the date of application for all CALPIA assignments or apprenticeship/training positions.

(c) Inmates assigned from the following locations, may utilize an alternate intake requirement of a minimum of two (2) months and a maximum of 60 months from their earliest EPRD, on the date of application:

(A) Reception Centers with a temporary or transient inmate population resulting in inmate worker unavailability.

(B) Institutions with a Level 1 inmate population.

(d) Inmates shall meet a minimum education requirement of a Test of Adult Basic Education (TABE) score of ~~9~~7.0 prior to assignment.

(e) Institutions with inmate populations whose educational levels do not meet the above minimum education level and are unable to meet CALPIA workforce needs may utilize the alternate intake requirement of a TABE score of ~~7~~5.0 prior to assignment to a CALPIA position.

(f) Inmates with qualified learning disabilities under the Americans with Disabilities Act of 1990 (ADA), as defined in Section 8000, and who have complied with CCR, Title 15, Division 3, Section 3085, may be accommodated with an exemption to 8004.1(d) or (e), unless the accommodation would result in financial or administrative burden, or unsafe working conditions for CALPIA.

(g) Prior to utilizing any of the above alternate intake requirements, a written waiver of authorization shall be obtained annually from the CALPIA General Manager by the Warden at each institution/facility in coordination with the CALPIA Administrator/Lead Manager at each specific enterprise.

(h) Within two years of initial CALPIA assignment, CALPIA inmate workers, regardless of their TABE score, shall be required to complete a General Education Diploma (GED) or high school diploma. CALPIA inmate workers shall remain in their current skill level, as specified in Section 8006(d)(1), while completing a GED or high school diploma and shall not be allowed to promote to a higher pay skill level until this educational requirement is satisfied.

#### **15-Day Notice of Additional Revisions to Regulatory Text:**

8004(d)(2) Inmates with Close ~~B~~ Custody designation may be considered for a CALPIA assignment that conforms with the requirements identified in California Code of Regulations (CCR), Title 15, Division 3, Section 3377.1(a)(~~42~~)(B) through (a)(2)(D) or (~~5a~~)(3)(B) through (a)(3)(D) on a case-by-case basis, with the approval of the Warden at the institution/facility.

These revisions to the proposed regulatory text were available for public comment through October 9, 2017, and no comments were received.